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EXAMINER	
KATCHEVES, KONSTANTINA T	

ART UNIT	PAPER NUMBER
1636	

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
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Paper No.

Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 11/5/2003 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see *68 Fed. Reg. 38611*, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following omission(s) or provision is required. **Only the section (1.121(h)) of the amendment document containing the omission or non-compliant provision must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.**

THE FOLLOWING CHECKED (X) ELEMENTS(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☐ C. Other _____

☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72
- ☐ B. Other _____

☐ 3. Amendments to the drawings: _____

☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
- ☐ B. The listing of claims does not include the text of all claims (incl. withdrawn claims)
- ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☒ E. Other: Amended claims do not identify amended, deleted, or added matter

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT,** applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and **this ONE MONTH time limit is not extendable.**

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION,** and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION,** this form may be an attachment to an Advisory Action. **The period for response to a final rejection continues to run from the date set in the final rejection**, and is not affected by the non-compliant status of the amendment.

K. Turner

Legal Instruments Examiner (LIE)

July 22, 2003 (rev.)

AMEND THE ABOVE-IDENTIFIED APPLICATION AS FOLLOWS:

CLAIM AMENDMENTS

1-244 (cancelled)

245 (currently amended) A process for selectively expressing a nucleic acid product into one or more compatible cells, which product requires processing for functioning, said process comprising;

(i) providing a nucleic acid construct which when introduced into said cells produces a nucleic acid product comprising a non-native intron, which when in one or more compatible cells, said processing element is substantially removed from the nucleic acid product during processing of the nucleic acid product and

(ii) introducing said construct into said compatible cells.

Claim 246 is cancelled.

247. (previously amended) The process of claim 245, wherein said nucleic acid product is selected from the group consisting of antisense RNA, antisense DNA, sense RNA, sense DNA, a ribozyme and a protein binding nucleic acid sequence and a combination of the foregoing.

248. (currently amended) The process of claim 245, wherein said construct is introduced ex vivo into said cells.

249. (currently amended) The process of claim245, wherein said construct is introduced in vivo into said cells.

250. (currently amended) The process of claim 245, wherein said construct is introduced into a biological system containing said cells.

251. (previously amended) The process of claim 250, wherein the biological system is selected from the group consisting of an organism, an organ, a tissue and a culture or a combination of the foregoing.

252. (new) The method according to claim 245, wherein said non-native intron is in a coding sequence of said nucleic acid product.

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